

EXHIBIT “A”

State Court of Fulton County

EFILED

File & ServeXpress

Transaction ID: 66361842

Date: Feb 23 2021 01:18PM

Christopher G. Scott, Chief Clerk

Civil Division

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

TAMMIE LOWE

Plaintiff,

vs.

FAMILY DOLLAR STORES OF GEORGIA,
LLC, EASTPOINT FD FREESTANDING,
LLC, ABC CO., LLC, and XYZ, INC.

Defendants.

CIVIL ACTION FILE NO.:

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

COMES NOW, TAMMIE LOWE, Plaintiff in the above-styled action and files this *Complaint for Damages and Demand for Jury Trial* against Defendants Family Dollar Stores of Georgia, LLC, Eastpoint FD Freestanding, LLC, ABC CO., LLC and XYZ, INC. and in support thereof, shows this Honorable Court as follows:

PARTIES, JURISDICTION AND VENUE

1.

Plaintiff TAMMIE LOWE, (hereinafter "Plaintiff") is a citizen and resident of the state of Georgia and resides in Fulton County. By bringing this action, she subjects herself to the jurisdiction and venue of this Court.

2.

Defendant FAMILY DOLLAR STORES OF GEORGIA, LLC is a foreign limited liability company registered to do business and is doing business in the State of Georgia. Defendant may be served with a copy of the Summons and Complaint through its Registered Agent: Corporation Service Company, 40 Technology Parkway South, #300, Norcross, GA

30092. Defendant is subject to the jurisdiction and venue of this Court pursuant to O.C.G.A. § 14-2-510.

3.

Defendant EASTPOINT FD FREESTANDING, LLC, is a domestic limited liability company registered to do business and is doing business in the State of Georgia. Defendant May be served with a copy of the Summons and Complaint through its Registered Agent, David Andes, at 201 Allen Rd, Ste 300, Atlanta, GA 30328. Defendant is subject to the jurisdiction and venue of this Court pursuant to O.C.G.A. § 14-2-510.

4.

The true names or capacities of the Defendants named herein as ABC Co., LLC and XYZ, Inc. are unknown to the Plaintiff, who therefore sues said defendants by such fictitious names. Plaintiff will amend her Complaint to show said Companies' true names when the same have been ascertained. Plaintiff alleges on information and belief that said defendant companies may also be jointly and severally liable for the negligent acts or omissions alleged herein. Venue and jurisdiction are proper in this Court.

SUBSTANTIVE FACTS

5.

On May 18, 2019, Defendant Family Dollar Stores of Georgia, LLC (hereinafter "Family Dollar") owned and/or operated a Family Dollar store, located at 2433 DeLowe Drive, East Point, Georgia 30344.

6.

On May 18, 2019, Defendant Eastpoint FD Freestanding, LLC (hereinafter "Eastpoint FD") owned and/or operated a Family Dollar store, located at 2433 DeLowe Drive, East Point,

Georgia 30344.

7.

On May 18, 2019, Plaintiff entered the subject premises as a customer and invitee. After checking out, Plaintiff made her way to the exit with her shopping cart of purchased goods.

8.

Suddenly and without warning, the shopping cart's front wheels encountered a sticky substance on the floor, believed to be an old soda spill, causing the cart's wheels to seize and Plaintiff to lose her balance and to fall violently to the floor.

9.

At the time in question, there were no warning signs alerting customers to any spills or hazards on the floor surface.

COUNT I:
LIABILITY OF DEFENDANT FAMILY DOLLAR STORES OF GEORGIA, LLC

10.

Plaintiff hereby incorporates Paragraphs 1 through 9 above by reference as if set forth expressly herein.

11.

Plaintiff was an invitee at Defendant Family Dollar's store.

12.

At all times relevant to this action, Defendant Family Dollar owed a duty to its invitees in general and Plaintiff in particular to maintain the premises in a reasonably safe condition, to inspect for dangerous conditions, correct dangerous conditions of which it knew or should have known, and to warn Plaintiff and others of the dangerous condition presented by foreign substances on the floor, about which it knew or should have known.

13.

Defendant Family Dollar's negligence proximately caused Plaintiffs injuries because it breached its duty to maintain the premises in a reasonably safe condition or take any measure to render safe a hazardous condition of which Defendant Family Dollar knew or should have known.

14.

As a direct result of Defendant Family Dollar's negligence, Plaintiff has suffered bodily, mental, emotional and financial injuries, for which she is entitled to recover under the law. Defendant Family Dollar is liable to Plaintiff for her injuries.

15.

At all times relevant hereto, Defendant Family Dollar and its agents, servants, and/or employees had actual or constructive knowledge of the foreign substance on the floor, but failed to correct the situation where Defendant Family Dollar had a duty to act.

16.

The injuries suffered by Plaintiff were a foreseeable and likely outcome of Defendant Family Dollar's failure to render the premises safe.

COUNT II: NEGLIGENCE OF EASTPOINT FD FREESTANDING, LLC

17.

Plaintiff incorporates Paragraphs 1 through 16 by reference as if set forth expressly herein.

18.

Plaintiff was an invitee at Defendant Eastpoint FD's store.

19.

At all times relevant to this action, Defendant Eastpoint FD owed a duty to its invitees in general and Plaintiff in particular to maintain the premises in a reasonably safe condition, to inspect for dangerous conditions, correct dangerous conditions of which it knew or should have known, and to warn Plaintiff and others of the dangerous condition presented by foreign substances on the floor, about which it knew or should have known.

20.

Defendant Eastpoint FD's negligence proximately caused Plaintiffs injuries because it breached its duty to maintain the premises and instrumentalities thereon in a safe condition or take any measure to render safe a hazardous condition of which Defendant Eastpoint FD knew or should have known.

21.

As a direct result of Defendant Eastpoint FD's negligence, Plaintiff has suffered bodily, mental, emotional and financial injuries, for which she is entitled to recover under the law. Defendant Eastpoint FD is liable to Plaintiff for her injuries.

22.

At all times relevant hereto, Defendant Eastpoint FD and its agents, servants, and/or employees had actual or constructive knowledge of the hazard causing Plaintiff's fall, but failed to either warn of it, or to correct the hazard where there was a duty to act.

23.

The injuries suffered by Plaintiff were a foreseeable and likely outcome of Defendant Eastpoint FD's failure to render the premises safe.

COUNT III: NEGLIGENCE OF ABC, Co. LLC and XYZ, INC

24.

Plaintiff incorporates paragraphs 1 through 23 by reference as if set forth expressly herein.

25.

Defendants ABC, Co. LLC and XYZ, Inc., are negligent in the manner stated in this Complaint.

DAMAGES

26.

Plaintiff incorporates paragraphs 1 through 25 by reference as if set forth expressly herein.

27.

Plaintiff claims general damages against Defendants for all elements of the pain and suffering, physical and mental injury, including fright, shock, and terror; and loss of the capacity for the enjoyment of life in an amount to be determined by the enlightened conscience of the jury after hearing the evidence at trial.

18.

Plaintiff also claims special damages for any past and future medical bills, and incidental expenses incurred on her behalf in an amount of \$50,634.80, which reflects the reasonable value of those services as established by evidence at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Tammie Lowe prays for the following relief:

- (a) That Summons issue requiring Defendants to appear as provided by law to answer this Complaint;
- (b) That Plaintiff has a trial by jury on all issues so triable;
- (c) That the Court enter judgment in favor of Plaintiff and against Defendants;
- (d) That the Court enter judgment in favor of Plaintiff and against Defendants for general and special damages as described herein in an amount to be determined by the enlightened conscience of the jury;
- (e) That Plaintiff recover all compensatory damages for the liability of Defendants claimed in the paragraphs above, and any other damages authorized by Georgia law under the evidence adduced at trial;
- (f) That Plaintiff is awarded attorneys' fees and expenses of litigation in accordance with O.C.G.A. § 13-6-11;
- (g) That Plaintiff be awarded any such other and further relief that the Court or jury deems just and equitable.

Respectfully submitted this 23rd day of February, 2021.

MORRISS | SHIM | DAVIS, LLC

/s/ Jordan T. Davis
Daniel Shim
Georgia State Bar No. 642749
Jordan T. Davis
Georgia State Bar No. 492277
Attorneys for Plaintiff

2233 Peachtree Rd., NE
Suite 212
Atlanta, Georgia 30309
P: 404-525-8000
F: 404-525-2573
dan@msdlawgroup.com
jordan@msdlawgroup.com

State Court of Fulton County

EFILED

GEORGIA, FULTON COUNTY

DO NOT WRITE IN THIS SPACE File & ServeXpress

STATE COURT OF FULTON COUNTY
Civil Division

CIVIL ACTION FILE #: 21EV001154

Transaction ID: 66363261

Case Number: 21EV001154

Date: Feb 23 2021 01:58PM

Christopher G. Scott, Chief Clerk

Civil Division

Tammie Lowe

Plaintiff's Name, Address, City, State, Zip Code

vs.

Family Dollar Stores of Georgia, LLC,
40 Technology Parkway South #300
Norcr GA 30092

Defendant's Name, Address, City, State, Zip Code

TYPE OF SUIT	AMOUNT OF SUIT
<input type="checkbox"/> ACCOUNT	PRINCIPAL \$ TBD
<input type="checkbox"/> CONTRACT	
<input type="checkbox"/> NOTE	INTEREST \$ TBD
<input type="checkbox"/> TORT	
<input checked="" type="checkbox"/> PERSONAL INJURY	ATTY. FEES \$ TBD
<input type="checkbox"/> FOREIGN JUDGMENT	
<input type="checkbox"/> TROVER	COURT COST \$ TBD
<input type="checkbox"/> SPECIAL LIEN	

<input checked="" type="checkbox"/> NEW FILING	
<input type="checkbox"/> RE-FILING: PREVIOUS CASE NO. _____	

SUMMONS

TO THE ABOVE NAMED-DEFENDANT:

You are hereby required to file with the Clerk of said court and to serve a copy on the Plaintiff's Attorney, or on Plaintiff if no Attorney, to-wit:

Name: Daniel Shim / Morriss, Shim & Davis

Address: 2233 Peachtree RD NE Ste. 212

City, State, Zip Code: Atlanta, GA 30309

Phone No.: (404) 525-8000

An answer to this complaint, which is herewith served upon you, must be filed within thirty (30) days after service, not counting the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint, plus cost of this action. **DEFENSES MAY BE MADE & JURY TRIAL DEMANDED**, via electronic filing or, if desired, at the e-filing public access terminal in the Self-Help Center at 185 Central Ave., S.W., Ground Floor, Room TG300, Atlanta, GA 30303.

Christopher G. Scott, Chief Clerk (electronic signature)

SERVICE INFORMATION:

Served, this _____ day of _____, 20_____.

DEPUTY MARSHAL, STATE COURT OF FULTON COUNTY

WRITE VERDICT HERE:

We, the jury, find for _____

This _____ day of _____, 20_____. _____ Foreperson

(STAPLE TO FRONT OF COMPLAINT)

State Court of Fulton County

EFILED

GEORGIA, FULTON COUNTY

DO NOT WRITE IN THIS SPACE

File & ServeXpress

STATE COURT OF FULTON COUNTY
Civil Division

CIVIL ACTION FILE #: 21EV001154

Transaction ID: 66363261

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Date: Feb 23 2021 01:58PM

Christopher G. Scott, Chief Clerk

Civil Division

Tammie Lowe

Plaintiff's Name, Address, City, State, Zip Code

vs.

Eastpoint FD Freestanding, LLC

201 Allen RD, Ste. 300

Atlanta GA 30328

Defendant's Name, Address, City, State, Zip Code

TYPE OF SUIT	AMOUNT OF SUIT
<input type="checkbox"/> ACCOUNT	PRINCIPAL \$ TBD
<input type="checkbox"/> CONTRACT	
<input type="checkbox"/> NOTE	INTEREST \$ TBD
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<input checked="" type="checkbox"/> NEW FILING	
<input type="checkbox"/> RE-FILING: PREVIOUS CASE NO. _____	

SUMMONS

TO THE ABOVE NAMED-DEFENDANT:

You are hereby required to file with the Clerk of said court and to serve a copy on the Plaintiff's Attorney, or on Plaintiff if no Attorney, to-wit:

Name: Daniel Shim / Morriss, Shim & Davis

Address: 2233 Peachtree RD NE Ste. 212

City, State, Zip Code: Atlanta, GA 30309

Phone No.: (404) 525-8000

An answer to this complaint, which is herewith served upon you, must be filed within thirty (30) days after service, not counting the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint, plus cost of this action. **DEFENSES MAY BE MADE & JURY TRIAL DEMANDED**, via electronic filing or, if desired, at the e-filing public access terminal in the Self-Help Center at 185 Central Ave., S.W., Ground Floor, Room TG300, Atlanta, GA 30303.

Christopher G. Scott, Chief Clerk (electronic signature)

SERVICE INFORMATION:

Served, this _____ day of _____, 20_____.

DEPUTY MARSHAL, STATE COURT OF FULTON COUNTY

WRITE VERDICT HERE:

We, the jury, find for _____

This _____ day of _____, 20_____. _____ Foreperson

(STAPLE TO FRONT OF COMPLAINT)

State Court of Fulton County

EFILED

GEORGIA, FULTON COUNTY

DO NOT WRITE IN THIS SPACE

File & ServeXpress

Transaction ID: 66363261

STATE COURT OF FULTON COUNTY

CIVIL ACTION FILE #: 21EV001154

Case Number: 21EV001154

Civil Division

Date: Feb 23 2021 01:58PM

Christopher G. Scott, Chief Clerk

Civil Division

Tammie Lowe

Plaintiff's Name, Address, City, State, Zip Code

vs.

ABC CO., LLC and

XYZ, Inc.

Defendant's Name, Address, City, State, Zip Code

TYPE OF SUIT	AMOUNT OF SUIT
<input type="checkbox"/> ACCOUNT	PRINCIPAL \$ TBD
<input type="checkbox"/> CONTRACT	
<input type="checkbox"/> NOTE	INTEREST \$ TBD
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<input type="checkbox"/> FOREIGN JUDGMENT	
<input type="checkbox"/> TROVER	COURT COST \$ TBD
<input type="checkbox"/> SPECIAL LIEN	

<input checked="" type="checkbox"/> NEW FILING	
<input type="checkbox"/> RE-FILING: PREVIOUS CASE NO.	

SUMMONS

TO THE ABOVE NAMED-DEFENDANT:

You are hereby required to file with the Clerk of said court and to serve a copy on the Plaintiff's Attorney, or on Plaintiff if no Attorney, to-wit:

Name: Daniel Shim / Morriss, Shim & Davis

Address: 2233 Peachtree RD NE Ste. 212

City, State, Zip Code: Atlanta, GA 30309

Phone No.: (404) 525-8000

An answer to this complaint, which is herewith served upon you, must be filed within thirty (30) days after service, not counting the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint, plus cost of this action. **DEFENSES MAY BE MADE & JURY TRIAL DEMANDED**, via electronic filing or, if desired, at the e-filing public access terminal in the Self-Help Center at 185 Central Ave., S.W., Ground Floor, Room TG300, Atlanta, GA 30303.

Christopher G. Scott, Chief Clerk (electronic signature)

SERVICE INFORMATION:

Served, this _____ day of _____, 20_____.

DEPUTY MARSHAL, STATE COURT OF FULTON COUNTY

WRITE VERDICT HERE:

We, the jury, find for _____

This _____ day of _____, 20_____. _____ Foreperson

(STAPLE TO FRONT OF COMPLAINT)

SHERIFF'S ENTRY OF SERVICE

Civil Action No. 21EV001154

Date Filed Feb. 23, 2021

Attorney's Address

Daniel Shim / Morriss, Shim & Davis

2233 Peachtree RD NE Ste. 212

Atlanta, GA 30309

Name and Address of Party to Served

Registered Agent for Family Dollar Stores of Georgia LLC

Corporation Service Company

40 Technology Parkway South # 300, Norcross, GA 30092

Superior Court ☐State Court ☒Juvenile Court ☐Magistrate Court ☐Probate Court ☐

Georgia, Fulton COUNTY

Tammie Lowe

Plaintiff

VS.

Family Dollar Stores of Georgia, LLC, Eastpoint FD

Freestanding, LLC, ABC CO., LLC and XYZ, Inc.

Defendant

Garnishee

SHERIFF'S ENTRY OF SERVICE

PERSONAL

☐ I have this day served the defendant _____ personally with a copy of the within action and summons.

NOTORIOUS

I have this day served the defendant _____ by leaving a copy of the action and summons at his most notorious place abode in this County.

☐ Delivered same into hands of _____ described as follows: age, about _____ years; weight _____ pounds; height _____ feet and _____ inches, domiciled at the residence of defendant.

CORPORATION

Served the defendant Family Dollar Stores of Georgia LLC a corporation

☒ by leaving a copy of the within action and summons with Christa Smith
In charge of the office and place of doing business of said Corporation in this County.

TACK & MAIL

I have this day served the above styled affidavit and summons on the defendant(s) by posting a copy of the same to the door of the premises designated in said affidavit and on the same day of such posting by depositing a true copy of same in the United States Mail, First Class in an envelope properly addressed to the defendant(s) at the address shown in said summons, with adequate postage affixed thereon containing notice to the defendant(s) to answer said summons at the place stated in the summons.

NON EST

☐ Diligent search made and defendant _____
not to be found in the jurisdiction of this Court.

This 2 day of March, 2021

DEPUTY

CLERK'S COPY

Doolittle 6/2/21

State Court of Fulton County

STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

DO NOT WRITE IN THIS SPACE

FILED
File & ServeXpress

Transaction ID: 66406970

Case Number: 21EV001154

Date: Mar 10 2021 09:01AM

Christopher G. Scott, Chief Clerk

Civil Division

21EV001154

Attorney or Plaintiff Name and Address

Tammie Lowe

vs.

Eastpoint FD Freestanding, LLC c/o Reg. Agent:

David Andes, 201 Allen Road, Ste. 300

Atlanta, GA 30328

Name and Address of PLAINTIFF

Name and Address of DEFENDANT

MARSHAL'S ENTRY OF SERVICE

PERSONAL	GEORGIA, FULTON COUNTY I have this day served the defendant(s) _____ _____ personally with a copy of the within action and summons. This _____ day of _____, _____ DEPUTY MARSHAL
NOTORIOUS	GEORGIA, FULTON COUNTY I have this day served the defendant(s) _____ By leaving a copy of the action and summons at his/their most notorious place of abode in said County. Delivered same in hands of _____, a _____ _____ described as follows: Age, about _____ years; weight, about _____ lbs; height, about _____ ft. _____ in., Domiciled at the residence of the defendant(s). This _____ day of _____, _____ DEPUTY MARSHAL
CORPORATION	GEORGIA, FULTON COUNTY Served the defendant <u>Eastpoint FD Freestanding LLC</u> , a corporation, by leaving a copy of the within action and summons with <u>Sanford A. Cohen</u> in charge of the office and doing business of said corporation, in Fulton County, Georgia. This <u>8th</u> day of <u>MARCH</u> , <u>2021</u> . <u>Cpl SHIVEGS 424</u> DEPUTY MARSHAL
BETTER ADDRESS	GEORGIA, FULTON COUNTY Diligent search made and the defendant(s): _____ Not to be found in the jurisdiction of said Court for the following reason: _____ _____
NON-EST	Please furnish this office with a new service form with the correct address. This _____ day of _____, _____ DEPUTY MARSHAL

REC'D MARSHAL 21 MAR 03 PM 09:34

1 copy for court's records + 1 copy to be returned to Plaintiff after service attempted

IN THE STATE COURT OF FULTON COUNTY

STATE OF GEORGIA

TAMMIE LOWE,

Plaintiff,

v.

FAMILY DOLLAR STORES OF GEORGIA,
LLC, EASTPOINT FD FREESTANDING,
LLC, ABC CO., LLC, and XYZ, INC.,

Defendant.

Civil Action

File No.: 21EV001154

AFFIRMATIVE DEFENSES AND ANSWER OF EASTPOINT FD
FREESTANDING, LLC

COMES NOW, Eastpoint FD Freestanding, LLC, named Defendant in the above styled action, and files the following Defenses and Answer to Plaintiff's Complaint and shows the Court as follows:

FIRST DEFENSE

The Complaint fails to set forth a claim against this Defendant upon which relief can be granted.

SECOND DEFENSE

For a Second Defense, the Defendant answers the numbered paragraphs of the Complaint as follows:

PARTIES, JURISDICTION AND VENUE

1.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Complaint and, therefore, cannot admit or deny same.

2.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Complaint and, therefore, cannot admit or deny same.

3.

Defendant admits the allegations contained in Paragraph 3 of the Complaint.

4.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Complaint and, therefore, cannot admit or deny same.

SUBSTANTIVE FACTS

5.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Complaint and, therefore, cannot admit or deny same.

6.

Defendant denies as pled the allegations contained in Paragraph 6 of the Complaint.

7.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the Complaint and, therefore, cannot admit or deny same.

8.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Complaint and, therefore, cannot admit or deny same.

9.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the Complaint and, therefore, cannot admit or deny same.

COUNT I:

LIABILITY OF DEFENDANT FAMILY DOLLAR STORES OF GEORGIA, LLC

10.

Defendant hereby incorporates the foregoing responses and defenses as if set forth expressly herein.

11.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the Complaint and, therefore, cannot admit or deny same.

12.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the Complaint and, therefore, cannot admit or deny same.

13.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of the Complaint and, therefore, cannot admit or deny same.

14.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Complaint and, therefore, cannot admit or deny same.

15.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of the Complaint and, therefore, cannot admit or deny same.

16.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of the Complaint and, therefore, cannot admit or deny same.

COUNT II: NEGLIGENCE OF EASTPOINT FD FREESTANDING, LLC

17.

Defendant hereby incorporates the foregoing responses and defenses as if set forth expressly herein.

18.

Defendant denies the allegations contained in Paragraph 18 of the Complaint.

19.

Defendant denies the allegations contained in Paragraph 19 of the Complaint.

20.

Defendant denies the allegations contained in Paragraph 20 of the Complaint.

21.

Defendant denies the allegations contained in Paragraph 21 of the Complaint.

22.

Defendant denies the allegations contained in Paragraph 22 of the Complaint.

23.

Defendant denies the allegations contained in Paragraph 23 of the Complaint.

COUNT III: NEGLIGENCE OF ABC, CO., LLC AND XYZ, INC.

24.

Defendant incorporates the foregoing responses and defenses as if set forth expressly herein.

25.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25 of the Complaint and, therefore, cannot admit or deny same.

DAMAGES

26.

Defendant incorporates the foregoing responses and defenses as if set forth expressly herein.

27.

Defendant denies the allegations contained in Paragraph 27 of the Complaint.

28.

Defendant denies the allegations contained in Paragraph 28 of the Complaint.

29.

Defendant denies the allegations contained in the PRAYER FOR RELIEF paragraph, including subparagraphs (a) through (g).

30.

Any allegation of the Complaint not admitted, denied or otherwise responded to above is hereby denied.

THIRD DEFENSE

Defendant is not liable to Plaintiff because Defendant breached no duty owed to Plaintiff in regard to the occurrence giving rise to this Complaint.

FOURTH DEFENSE

Defendant shows that the alleged damages of Plaintiff, if any, were caused by the contributory and comparative negligence of Plaintiff.

FIFTH DEFENSE

Plaintiff, by the exercise of ordinary care, could have avoided the consequences of any act or failure to act of Defendant.

SIXTH DEFENSE

Defendant is not liable to Plaintiff because the negligence of Plaintiff equaled or preponderated over any acts or omissions of Defendant in producing or in bringing about the occurrence complained of, but Defendant denies that any act of Defendant produced, brought about, caused, or contributed to in any manner whatsoever the occurrence complained of in the Complaint.

SEVENTH DEFENSE

Defendant is an out of possession landlord.

EIGHTH DEFENSE

The claims of Plaintiff are barred by the Georgia doctrine of assumption of risk.

NINTH DEFENSE

Plaintiff's injuries, if any, were caused by an unforeseeable intervening third party tortfeasor and/or the acts and failure to act of persons or entities other than Defendant.

TENTH DEFENSE

The Complaint should be dismissed for lack of jurisdiction over the subject matter, lack of jurisdiction over the person of this Defendant, improper venue, and insufficiency of process and service of process as to this Defendant.

ELEVENTH DEFENSE

In the event that any benefits have been paid by or on behalf of Defendant, Defendant is entitled to a set off against any verdict for the amount of benefits paid. See, *Orndorff v. Brown*, 197 Ga. App. 591 (1990).

WHEREFORE, having fully answered, Defendant prays that the Complaint be dismissed with costs of this action cast against the Plaintiff.

This 31st day of March, 2021.

[SIGNATURE ON THE FOLLOWING PAGE]

Goodman McGuffey LLP
Attorneys for Family Dollar Stores of Georgia, LLC and
Eastpoint FD Freestanding, LLC

By: /s/James T. Hankins, III
James T. Hankins, III
GA State Bar No.: 188771
jhankins@GM-LLP.com
Samantha M. Mullis
GA State Bar No.: 365592
smullis@gm-llp.com
3340 Peachtree Road NE, Suite 2100
Atlanta, GA 30326-1084
(404) 264-1500 Phone
(404) 264-1737 Fax

DEFENDANT DEMANDS
TRIAL BY JURY OF TWELVE

IN THE STATE COURT OF FULTON COUNTY

STATE OF GEORGIA

TAMMIE LOWE,

Plaintiff,

v.

FAMILY DOLLAR STORES OF
GEORGIA, LLC, EASTPOINT FD
FREESTANDING, LLC, ABC CO., LLC,
and XYZ, INC.,

Defendant.

Civil Action

File No.: 21EV001154

CERTIFICATE OF SERVICE

This is to certify that I have this day served all counsel and parties of record with a copy of Affirmative Defenses and Answers of Eastpoint FD Freestanding, LLC by statutory electronic service pursuant to O.C.G.A. § 9-11-5(b) or by depositing a copy of same in the United States Mail, postage prepaid, as follows:

Daniel Shim, Esq.
Morris, Shim, Davis, LLC
2233 Peachtree Road NE, Suite 212
Atlanta, GA 30309

Jordan T. Davis, Esq.
Morris, Shim, Davis, LLC
2233 Peachtree Rd., NE, Suite 212,
Atlanta, Georgia 30309

This 31st day of March, 2021.

By: /s/James T. Hankins, III
James T. Hankins, III
GA State Bar No.: 188771
jhankins@GM-LLP.com
Goodman McGuffey LLP
3340 Peachtree Road NE, Suite 2100
Atlanta, GA 30326-1084
(404) 264-1500 Phone
(404) 264-1737 Fax

State Court of Fulton County

EFILED

File & ServeXpress

Transaction ID: 66547475

Case Number: 21EV001154

Date: Apr 26 2021 01:32PM

Christopher G. Scott, Chief Clerk

Civil Division

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

TAMMIE LOWE,

Plaintiff,

FAMILY DOLLAR STORES OF
GEORGIA, LLC, EASTPOINT FD
FREESTANDING, LLC, ABC CO., LLC,
And XYZ, INC.,

Defendants.

CIVIL ACTION FILE NO.

21EV001154

5.2 CERTIFICATE OF SERVICE

This is to certify in accordance with Uniform Superior Court Rule 5.2 that I have this day served counsel for the opposing party in the foregoing matter with a copy of Plaintiff's Responses to Defendant Family Dollar Stores of Georgia, LLC's First Interrogatories and Requests for Production of Documents by depositing a copy of same in the United States Mail, postage prepaid, as follows:

Samantha M. Mullis
Goodman McGuffey LLP
3340 Peachtree Road, NE
Suite 2100
Atlanta, GA 30326-1084

Respectfully submitted this 26th day of April, 2021.

MORRISS | SHIM | DAVIS, LLC

/s/ Jordan T. Davis

Jordan T. Davis

Georgia State Bar No. 492277

Attorney for Plaintiff

2233 Peachtree Rd., NE
Suite 212
Atlanta, Georgia 30309
P: 404-525-8000
F: 404-525-2573
jordan@msdlawgroup.com

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

TAMMIE LOWE,)	
)	
Plaintiff,)	CIVIL ACTION FILE NO.
)	
FAMILY DOLLAR STORES OF)	<u>21EV001154</u>
GEORGIA, LLC, EASTPOINT FD)	
FREESTANDING, LLC, ABC CO., LLC,)	
And XYZ, INC.,)	
)	
Defendants.)	

5.2 CERTIFICATE OF SERVICE

This is to certify in accordance with Uniform Superior Court Rule 5.2 that I have this day served counsel for the opposing party in the foregoing matter with a copy of Plaintiff's Responses to Defendant Family Dollar Stores of Georgia, LLC's First Interrogatories and Requests for Production of Documents by depositing a copy of same in the United States Mail, postage prepaid, as follows:

Samantha M. Mullis
Goodman McGuffey LLP
3340 Peachtree Road, NE
Suite 2100
Atlanta, GA 30326-1084

Respectfully submitted this 26th day of April, 2021.

MORRISS | SHIM | DAVIS, LLC

/s/ Jordan T. Davis
Jordan T. Davis
Georgia State Bar No. 492277
Attorney for Plaintiff

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IN THE STATE COURT OF FULTON COUNTY
 STATE OF GEORGIA

TAMMIE LOWE,)	
)	
Plaintiff,)	CIVIL ACTION FILE NO.
)	
FAMILY DOLLAR STORES OF)	<u>21EV001154</u>
GEORGIA, LLC, EASTPOINT FD)	
FREESTANDING, LLC, ABC CO., LLC)	
And XYZ, INC.,)	
)	
Defendants.)	

CONSENT MOTION TO DROP AND DISMISS
DEFENDANT EASTPOINT FD FREESTANDING, LLC

COME NOW Plaintiffs and Defendants, by and through their respective attorneys, and move with the consent and agreement of the parties and pursuant to O.C.G.A. § 9-11-21 for an Order dropping and dismissing without prejudice Defendant EASTPOINT FD FREESTANDING, LLC (“Dismissed Defendant”) upon the following conditions:

- a. In the event facts arise necessitating the addition of any Dismissed Defendant back into this action, Plaintiff may serve the Dismissed Defendant without leave of court, and undersigned counsel for the Dismissed Defendant will timely accept and acknowledge service of Plaintiff’s Complaint;
- b. In the event that the Dismissed Defendant is added back into this action, such Dismissed Defendant shall be afforded no less than ninety (90) days before trial is requested or scheduled in which to assert any crossclaims, complete discovery, and prepare for trial;
- c. In the event that the Dismissed Defendant is added back into this action, the Dismissed Defendant shall be afforded the usual response period allowed under

the Georgia Civil Practice Act in which to file an Answer, defensive pleadings, defensive motions, and/or any other responsive documents.

WHEREFORE, Plaintiffs and Defendants pray that this motion be granted and that the Court enter the attached Consent Order dropping and dismissing Eastpoint FD Freestanding, LLC without prejudice with all claims against Defendant Family Dollar Store of Georgia to remain pending. A Proposed Order is attached as Exhibit A herein.

This 13th day of May, 2021

MORRISS | SHIM | DAVIS

/s/Jordan T. Davis w/ express
permission

Daniel Shim

Georgia Bar No. 649742

Jordan T. Davis

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GOODMAN MCGUFFEY LLP

/s/James T. Hankins, III

James T. Hankins, III

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IN THE STATE COURT OF FULTON COUNTY

STATE OF GEORGIA

TAMMIE LOWE,

Plaintiff,

v.

FAMILY DOLLAR STORES OF
GEORGIA, LLC, EASTPOINT FD
FREESTANDING, LLC, ABC CO., LLC,
and XYZ, INC.,

Defendant.

Civil Action

File No.: 21EV001154

CERTIFICATE OF SERVICE

This is to certify that I have this day served all counsel and parties of record with a copy of **Consent Motion to Drop and Dismiss Defendant Eastpoint FD Freestanding, LLC** by statutory electronic service pursuant to O.C.G.A. § 9-11-5(b) or by depositing a copy of same in the United States Mail, postage prepaid, as follows:

Daniel Shim, Esq.
Morriss, Shim, Davis, LLC
2233 Peachtree Road NE, Suite 212
Atlanta, GA 30309

Jordan T. Davis, Esq.
Morriss, Shim, Davis, LLC
2233 Peachtree Rd., NE, Suite 212,
Atlanta, Georgia 30309

This 13th day of May, 2021.

By: /s/James T. Hankins, III
James T. Hankins, III
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IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

TAMMIE LOWE,)	
)	
Plaintiff,)	CIVIL ACTION FILE NO.
)	
FAMILY DOLLAR STORES OF)	<u>21EV001154</u>
GEORGIA, LLC, EASTPOINT FD)	
FREESTANDING, LLC, ABC CO., LLC)	
And XYZ, INC.,)	
)	
Defendants.)	

ORDER DROPPING AND DISMISSING PARTY DEFENDANT

The Consent Motion to Drop and Dismiss Defendant Eastpoint FD Freestanding, LLC as party Defendant having been read and considered,

IT IS HEREBY ORDERED that said Motion is GRANTED and that Defendant Eastpoint FD Freestanding, LLC is hereby dropped and dismissed from the above-styled action without prejudice, with the caption of this case amended accordingly.

It is further ORDERED that this action shall continue with respect to Plaintiff's' claims against Defendant Family Dollar Store of Georgia, LLC and that said claims shall not be impacted in any manner due to the dismissal of Defendant Eastpoint FD Freestanding, LLC.

SO ORDERED, this _____ day of _____, 2021

Judge, State Court of Fulton County

cc: Daniel Shim
James T. Harkins, III

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

TAMMIE LOWE,

Plaintiff,

CIVIL ACTION FILE NO.

FAMILY DOLLAR STORES OF
GEORGIA, LLC, EASTPOINT FD
FREESTANDING, LLC, ABC CO., LLC
And XYZ, INC.,

21EV001154

GRANTED

Defendants.

ORDER DROPPING AND DISMISSING PARTY DEFENDANT

The Consent Motion to Drop and Dismiss Defendant Eastpoint FD Freestanding, LLC as party Defendant having been read and considered,

IT IS HEREBY ORDERED that said Motion is GRANTED and that Defendant Eastpoint FD Freestanding, LLC is hereby dropped and dismissed from the above-styled action without prejudice, with the caption of this case amended accordingly.

It is further ORDERED that this action shall continue with respect to Plaintiff's' claims against Defendant Family Dollar Store of Georgia, LLC and that said claims shall not be impacted in any manner due to the dismissal of Defendant Eastpoint FD Freestanding, LLC.

SO ORDERED, this _____ day of 5/13/2021, 2021

Judge, State Court of Fulton County

cc: Daniel Shim
James T. Harkins, III